

**BOARD OF APPEALS CASE NO. 5142**

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**BEFORE THE**

**APPLICANTS: William & Margaret Chavis**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct a porch within the required front yard setback; 1702 Allen Court, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

**Aegis: 5/9//01 & 5/16/01**

**HEARING DATE: June 18, 2001**

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**Record: 5/11/01 & 5/18/01**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, William and Margaret Chavis, are requesting a variance, pursuant to Sections 267-36B, Table V, and 267-23C(1)(a)[2] of the Harford County Code, to construct a porch within the required 32 foot front yard setback (proposed 26 foot setback), in an R2, Urban Residential District.

The subject property is located at 1702 Allen Court, Bel Air, MD 21015, and is more particularly identified on Tax Map 50, Grid 1A, Parcel 248. The subject parcel contains .374 acres, is located in the Greenridge II subdivision, and is presently zoned R2, Urban Residential. The property is entirely within the Third Election District.

Mr. William Chavis appeared and testified that he was the owner of the subject parcel and the applicant herein. Mr. Chavis stated that he wishes to construct an 18 ft. by 7 ft. porch on the front of his house. The porch will enhance the appearance of the home and provide some protection from inclement weather according to the witness. The present steps are sinking because no footers were placed under that structure and it has to be removed and replaced. The Applicant wants to take this opportunity to add the covered porch. The road in front of the Applicant's house curves and is not straight. This curvature results in a varying setback and further results in the need for the requested variance. The request is to reduce the setback to 26 feet instead of the required 32 feet. The Applicant believes that no detrimental impact will result from this slightly reduced setback and that, without the variance, he could not construct a porch that was useful or compatible with other porches in the neighborhood.

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The Department of Planning and Zoning agreed with the Applicant that the curvature of the road is unique and creates this variable setback across the front of the house. When the porch is constructed some of it will meet the setback requirement while a portion of the porch needs the variance. The Department of Planning and Zoning found the variance request to be quite minor in nature and recommended approval of the request.

No persons appeared in opposition to the request.

### **CONCLUSION:**

The Applicants are requesting a variance, pursuant to Sections 267-36B, Table V, and 267-23C(1)(a)[2] of the Harford County Code, to construct a porch within the required 32 foot front yard setback (proposed 26 foot setback), in an R2, Urban Residential District.

Section 267-23C(1)(a)[2] permits encroachment into the minimum setbacks as follows:

“Exceptions and modifications to minimum yard requirements.

(1) Encroachment.

- (a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:....

[2] Bay windows, balconies, chimneys or porches: three (3) feet.”

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

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The Maryland Court of Appeals has provided guidance in matters of variance requests and described a two-step analysis in determining whether such requests should be granted. According to the guidance provided by Court, the variance process is a two-step, sequential process:

1. The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature of surrounding properties, such that the uniqueness or peculiarity of the property causes the zoning provision to impact disproportionately upon the property. If this finding cannot be made, the process stops and the variance must be denied. If, however, the first step results in a supportive finding of uniqueness or unusualness, then the second step in the process is taken.
2. The second step is a demonstration of whether unreasonable hardship (or practical difficulty) results from the disproportionate impact of the ordinance caused by the property's uniqueness exists. Cromwell v. Ward, 102 Md. App. 691 (1995).

The Applicant has demonstrated that his property has unique topographical features; namely, the curvature of the road in front to of the dwelling which results in a variable setback. The Hearing Examiner is unaware of any other request that has come before the Board under circumstances such as these. The Examiner finds the subject parcel unique and further, that the proposed porch will not have any detrimental impacts on neighboring or adjacent properties, nor, if granted, will the variance impair the purpose of the Code. There are no health or safety concerns associated with this request.

The Hearing Examiner recommends approval of the request subject only to the Applicant obtaining all necessary permits and inspections.

Date JULY 24, 2001

William F. Casey  
Zoning Hearing Examiner